

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
CHARLOTTE, NC

SEP-1 2010

US DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CRIMINAL NO. 3:10cr-161-FDW

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
MICHAEL J. FOLEY,)
)
Defendant.)

CONSENT ORDER AND
JUDGMENT OF FORFEITURE

BASED UPON the defendant's plea of guilty, and finding that there is a substantial nexus between the property listed below and the offense(s) to which the defendant has pled guilty and that the defendant has or had a legal interest in the property, IT IS HEREBY ORDERED THAT:

1. The following property is forfeited to the United States pursuant to 18 U.S.C. §924(d), 18 U.S.C. §982, 18 U.S.C. §3665, 21 U.S.C. §853, 26 U.S.C. §5872, and/or 28 U.S.C. §2461(c):

A monetary judgment in the amount of \$4,983,739.09, which sum represents proceeds obtained, directly or indirectly, from violation(s) of Title 18, United States Code;

The following specific assets; provided, upon the completion of forfeiture and sale of these assets, the defendant shall receive a credit against the above monetary judgment for the amount of net proceeds realized by the government:

- a. All accounts at American Commercial Bank in the sole or joint name of Michael J. Foley, Mike Foley, Inc., or Builder Resource Group. These accounts include, but are not limited to account numbers ending: xxxx0360; xxxxxx7848; and xxxx0318;
- b. All accounts at Fifth Third Bank in the sole or joint name of Michael J. Foley, Mike Foley, Inc., or Builder Resource Group. These accounts include, but are not limited to account numbers ending xxxxx2702;
- c. All accounts at UBS in the sole or joint name of Michael J. Foley, Mike Foley, Inc., or Builder Resource Group. These accounts include, but are not limited to account numbers ending xxxx3283 and xxx9314;
- d. All accounts at E*Trade in the sole or joint name of Michael J. Foley, Mike Foley, Inc., or Builder Resource Group. These accounts include, but are not limited to account numbers ending xxxx2657 and xxxx4084;

- e. **The balance of funds in excess of \$10,000 of all accounts at HSA Bank in the sole or joint name of Michael J. Foley, Mike Foley, Inc., or Builder Resource Group. These accounts include, but are not limited to account numbers ending xxxx7300;**
- f. **Defendant's interest in the following real property:**
 - i. **18585 Vineyard Point Lane, Cornelius, NC**
 - ii. **6811 Fieldlark Trail, Charlotte, NC**
 - iii. **5920 McGregor Drive, Charlotte, NC**
 - iv. **6534 Danbrook Park, Charlotte, NC**
 - v. **109 James Drew Court, Charlotte, NC**
 - vi. **2665 Shelburne Place, Charlotte, NC**
 - vii. **Lot 20, Holland Avenue, Charlotte, NC**
 - viii. **Unit 634, Baywatch; North Myrtle Beach, SC**
 - ix. **Unit 1009 Prince Resort, North Myrtle Beach, SC**
 - x. **Unit 1010 Prince Resort, North Myrtle Beach, SC;**
- g. **A 2005 Lexus RX330 SUV automobile;**
- h. **Any and all watercraft, including a 2003 pontoon boat and related equipment, including, but not limited to motor(s) and trailer(s); and**
- i. **An additional \$15,000 from what was previously held as cash.**

2. The United States Marshal and/or other property custodian for the investigative agency is authorized to take possession and maintain custody of any specific assets listed above;

3. A forfeiture money judgment in the amount of \$4,983,739.09 shall be included in the sentence of the defendant, and the United States Department of Justice may take steps to collect the judgment from any property of the defendant, including, but not limited to the defendant's interest in any real property in accordance with the substitute asset provisions of 21 U.S.C. § 853(p); however, the United States will not forfeit or seek to satisfy the judgment from any assets of the defendant identified by the defendant to the United States as of the date of this consent order and not specifically listed in paragraph 1 above (the "exempted assets"), nor from the future sales of such exempted assets;

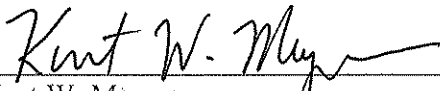
4. Upon the seizure of any property to satisfy all or part of the judgment, the United States shall, to the extent practicable, provide direct written notice to any persons known to have alleged an interest in the seized property, and shall publish notice of this forfeiture as required by law;


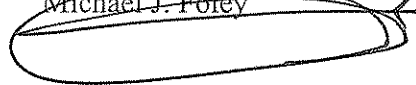
5. Any person, other than the defendant, asserting any legal interest in the property may, within thirty days of the publication of notice or the receipt of notice, whichever is earlier, petition the court for a hearing to adjudicate the validity of the alleged interest;

6. Following the Court's disposition of all timely petitions filed, a final order of forfeiture shall be entered.


The parties stipulate and agree that the aforementioned \$4,983,739.09 constitutes property derived from or traceable to proceeds of defendant's crime(s) herein or property used in any manner to facilitate the commission of such offense(s) and is therefore subject to forfeiture pursuant to 18 U.S.C. §924(d), 18 U.S.C. §982, 21 U.S.C. §853, 26 U.S.C. §5872, and/or 28 U.S.C. §2461(c). The defendant hereby waives the requirements of Fed. R. Crim. P. 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment against defendant.

ANNE M. TOMPKINS
UNITED STATES ATTORNEY


Kurt W. Meyers
Assistant United States Attorney


Michael J. Foley

Anthony G. Scheer

I, Kathryn Foley, hereby waive any right, title and interest I may have, by virtue of marriage, title, or otherwise, in the assets listed herein. I consent to their forfeiture as part of the criminal case or any related civil case. As to all such assets, I waive all right to further notice in any civil or criminal forfeiture proceeding brought by the government.


Kathryn Foley

Signed this the 1st day of September, 2010.
~~30th~~


UNITED STATES MAGISTRATE JUDGE